

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

FRANCISCO MEDRANO SOTO,

Plaintiff,

vs.

**MARVIN ENG, misnamed as
MARVIN K. ENG, and PV
HOLDING CORPORATION,**

Defendants.

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CASE NO. _____

**DEFENDANTS PV HOLDING CORP. AND MARVIN ENG'S
NOTICE OF REMOVAL**

TO THE HONORABLE UNITED STATES DISTRICT COURT:

Defendant PV Holding Corp. ("Defendant PV Holding") and Defendant Marvin Eng, misnamed as Marvin K. Eng ("Defendant Eng") (collectively "Defendants"), file this Notice of Removal and respectfully show the Court the following:

1. On or about December 5, 2018, an action was commenced against Defendants in the 442nd Judicial District Court of Denton County, Texas, entitled *Francisco Medrano Soto v. Marvin K. Eng and PV Holding Corporation*, with the assigned cause number of 18-11215-442. The following documents are exhibits which are incorporated herein:

- State court's docket sheet is attached as Exhibit A;¹
- Index of State Court Records is attached as Exhibit B;

¹ Defendants have requested a certified copy of the docket sheet from the Denton County Clerk and will supplement this Notice of Removal with a certified copy of the State Court docket sheet upon receipt.

- Plaintiff's Original Petition and Request for Disclosure filed in State court is attached as Exhibit B-1;
- Case Information Sheet attached as Exhibit B-2;
- Citation issued to Marvin K. Eng in the State court proceedings is attached as Exhibit B-3;²
- Citation issued to PV Holding in the State court proceedings is attached as Exhibit B-4;
- Notice of Service of Process on PV Holding Corp. showing service on December 26, 2018, temporarily attached in lieu of Officer's Return of Citation for PV Holding in the State court proceedings, attached as Exhibit B-5;³
- Defendant PV Holding's Original Answer filed in the State court is attached as Exhibit B-6;
- Defendant Marvin Eng's, Misnamed as Marvin K. Eng, Original Answer is attached as Exhibit B-7;
- Affidavit of Jeanne Motosko, Regional Risk Manager for Avis Budget Group, Inc. and its affiliated companies, including Defendant PV Holding is attached as Exhibit C;
- Website printout from the Delaware Secretary of State showing PV Holding is a Delaware corporation, attached as Exhibit D; and
- Affidavit of Marvin Eng is attached as Exhibit E.
- List of Parties in the Case, attached as Exhibit F.

² Defendants have requested a copy of the Citation issued to Marvin K. Eng from the Denton County District Clerk and will supplement this Notice of Removal with a copy of the citation upon receipt.

³ Defendants have requested a copy of the Officer's Return of Citation for PV Holding in the State court proceedings and will supplement this Notice of Removal with a copy of the citation upon receipt.

- List of Attorneys, attached as Exhibit G.
- Record of Parties Requesting Jury Trial, attached as Exhibit H.
- Name and address of State Court, attached as Exhibit I.

2. Defendant PV Holding's first receipt of Plaintiff's Original Petition was through service of the Citation and Petition on Defendant on or about December 26, 2018. Exhibit B-5. With the exception of Plaintiff's Original Petition and Request for Disclosure (attached as Exhibit B-1), Defendant PV Holding's Original Answer (attached as Exhibit B-6) and Defendant Eng's Original Answer (attached as Exhibit B-7), no other pleadings have been filed. No other defendant has been named by Plaintiff.

3. Defendant Eng was not served with process, but filed an answer on January 22, 2019. Exhibit B-7.

4. This Notice of Removal is filed within thirty (30) days of Defendant PV Holding's first notice or receipt of Plaintiff's Original Petition and is therefore timely filed pursuant to 28 U.S.C. §1446(b).

5. Removal of a civil action from state court to federal court is governed by 28 U.S.C. § 1441, et seq. Section 1441(a) states:

Any civil action brought in a State court of which the district courts of the United States have original jurisdiction, may be removed by the defendant or the defendants, to which the district court of the United States for the district and division embracing the place where such action is pending.

Title 28 of the United States Code Section 1332 describes the diversity jurisdiction of the U.S.

District Courts:

The district courts shall have original jurisdiction of all civil actions where the matter in controversy exceeds the sum or value of \$75,000.00, exclusive of interest and costs, and is between -

(1) citizens of different States.

6. The above described action is a civil action of which this Court has original jurisdiction by diversity of the parties, as this case is between citizens of different states. Plaintiff claims to be a Texas citizen. Exhibit B1. Defendant PV Holding is a Delaware corporation with its principal place of business in Parsippany, New Jersey. Exhibit C and Exhibit D. Defendant Eng is a citizen of the State of Illinois. Exhibit E. In his Original Petition, Plaintiff states that he seeks monetary relief of over \$200,000 but less than \$1,000,000. Exhibit B-1, paragraph II. Accordingly, removal is proper under 28 U.S.C. §§ 1332, 1441 and 1446 due to the existence of diversity and the amount in controversy exceeding \$75,000.

7. Written notice of the filing of this Notice of Removal has been given to all parties herein, and a copy of this Notice has been mailed to the District Clerk of Denton County, Texas.

8. Pursuant to Local Rules, a JS 44 Civil Cover Sheet for cases removed from state district court is being filed.

WHEREFORE, Defendant removes this action from the 442nd District Court of Denton County, Texas, to this Court on or about January 24, 2019, pursuant to 28 U.S.C. §§ 1441 and 1446.

Respectfully submitted,

By: /s/ Vic Houston Henry

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**ATTORNEYS FOR DEFENDANTS
PV HOLDING CORP. AND
MARVIN ENG, Misnamed as
MARVIN K. ENG**

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing instrument has been served via the Court's ECF system on the following counsel of record in accordance with the Federal Rules of Civil Procedure on this 24th day of January, 2019.

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Via ECF

/s/ Katherine Knight
Katherine Knight